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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/541,647	04/03/2000	Phillip Apple	1567	4431

7590

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EXAMINER

YIP, WINNIE S

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 03/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**09/541,647**

Applicant(s)  
**Phillip Apple**

Examiner  
**Winnie Yip**

Art Unit  
**3635**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Dec 12, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☒ The proposed drawing correction filed on Sep 11, 2001 is: a) ☒ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other: \_\_\_\_\_

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### **Part III DETAILED ACTION**

This office action is in response to applicant's amendment filed on December 12, 2001.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Specification***

1. The disclosure is objected to because of the following informalities: In page 5, lines 8 and 9, the numerical number "8" should read "eight" in order to avoid the confusing as a reference character.

Appropriate correction is required.

#### ***Claim Rejections - 35 U.S.C. § 112***

2. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 8, the claim language "the appearance of a South Seas or Caribbean umbrella" causes the claims vague and indefinite in that it fails to point out what is included or excluded, and what should be appearance as the South Seas or Caribbean?

The dependent claims 2-7 are also rejected on the merits.

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***Claim Rejections - 35 U.S.C. § 103***

3. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over TikiTrader Inc. in view of Safari Thatch and Bamboo, Inc.

TikiTrader Inc. teaches a thatched umbrella (see attachment, page 2) comprising a conventional umbrella frame having a pole, a hub, ribs, and struts, said umbrella frame being openable and closeable, a woven palm thatch piece formed capably in a continuous one piece in a circular shape to be fitted over the umbrella frame by suitable fastening means such as by screws, and a finial disposed on top of the pole. Although TikiTrader Inc. does not define the thatched umbrella having a canopy overlaying and connected to the frame and undernear of the woven palm thatched piece, Safari Thatch and Bamboo, Inc. teaches a thatched umbrella including a woven thatch piece placed over an umbrella frame, and a sheet of water shield being placed over the umbrella frame and covered by the woven thatch piece for waterproofing. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the thatched umbrella of TikiTrader Inc. having a waterproof canopy made of variety waterproofing sheet of materials such as a fabric member as claimed to be attached between the frame and the thatched piece as taught by Safari Thatch and Bamboo, Inc. for preventing rainwater through the umbrella.

In regard to claims 2-3, to provide the umbrella of TikiTrader Inc. having the thatch formed by woven palm thatches in a single piece as a annulus or a disk would have been an obvious matter of design choice to one skill in the art as to commodate the shape of the umbrella

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frame to be covered since applicant has not disclosed that the thatched piece having the particular configuration solves any stated problem or is for any particular purpose and it appears that the thatched umbrella of TikiTrader Inc. would be capably performed equally well with the shape of the thatched piece as desired..

In regard to claim 4, Safari Thatch and Bamboo Inc. does not show the canopy being selected from what particular fabric material, however, it would have been obvious to one skilled in the art to make the canopy of the umbrella of TikiTrader Inc. in view of Safari thatch and Bamboo, Inc. being selected from a particular fabric material as claimed because the fabric materials, such as acrylic, polyester, nylon, cotton can canvas as claimed are well known fabric material used in the art which take advantage of desirable properties such as durable and waterproof, etc.

In regard to claim 8, although either TikiTrader Inc., or Safari Thatch and Bamboo, Inc. does not define the umbrella frame are made of metal, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the thatched umbrella of TikiTrader Inc. in view of the umbrella structure of Safari Thatch & Bamboo, Inc to place the thatch piece over the umbrella frame which is made metal instead of made of bamboo since the metal frame is a well known frame material for umbrella structure which is lightweight, durable and weather resistant with minimum maintenance requirements, all of the foregoing are within the skills, competence and knowledge of the person with ordinary skills in the cognizant art.

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*Response to Amendment*

4. Applicant's arguments filed December 12, 2000 with respect to claims 1-8 have been fully considered and they are deemed to overcome the earlier rejection. However, Applicant's arguments are moot in view of the new ground of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Yip whose telephone number is (703) 308-2491. The examiner can normally be reached on Mondays through Friday from 9:30 AM to 6:00 PM.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113. The fax phone number for this Group is (703)305-7687.



Winnie Yip  
Patent Examiner  
Group Art Unit 3635

March 8, 2002